

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'C' BENCH, KOLKATA**

**[Before Shri J. Sudhakar Reddy, Accountant Member & Shri Aby T. Varkey, Judicial Member]**

**I.T.A. No. 1165/Kol/2019  
Assessment Year: 2012-13**

**Anil Kumar Mishra.....Appellant  
[PAN: AFAPM 5049 JJ]**

**Vs.**

**ITO, Ward-47(2), Kolkata.....Respondent**

**Appearances by:**

*Sh. Miraj D. Shah, AR, appeared on behalf of the Assessee.*

*Sh. Supriyo Pal, JCIT, Sr. DR, appeared on behalf of the Revenue.*

Date of concluding the hearing : October 31<sup>st</sup>, 2019

Date of pronouncing the order : October 31<sup>st</sup>, 2019

**ORDER**

**Per J. Sudhakar Reddy, AM:**

This appeal is filed by the assessee directed against the order of the Commissioner of Income Tax (Appeals)-14, Kolkata ['CIT(A)' for short] dated 27.01.2017.

2. After hearing rival contentions we find that the ld. CIT(A) has passed an *ex-parte* order for non-appearance of the assessee. The ld. AR submitted that all the documents were furnished before the AO but he has ignored the same and has made the addition. He submitted that no proper opportunity of being heard was given to the assessee. The ld. CIT(A) has also not disposed off the appeal on merits. Such dismissal for non-prosecution is not permissible in law. The ld. Counsel for the assessee submitted that the case may be restored to the file of the AO for fresh adjudication in accordance with law.

3. The ld. DR submitted that the issue may be restored to the file of the ld. AO as there was violation of principles of natural justice at the stage of the assessment itself.

4. Under these circumstances in view of the above submission, we set aside the matter to the file of the ld. AO for fresh adjudication in accordance with law.
5. In the result, the appeal of the assessee is allowed for statistical purposes.

***Kolkata, the 31<sup>st</sup> October, 2019.***

Sd/-  
[Aby T. Varkey]  
Judicial Member  
Dated: 31.10.2019  
*Bidhan*

Sd/-  
[J. Sudhakar Reddy]  
Accountant Member

*Copy of the order forwarded to:*

1. ***Anil Kumar Mishra, 37/2/2, Foreshore Road, Howrah-711 103.***
2. ***ITO, Ward-47(2), Kolkata.***
3. CIT-
4. CIT(A)-14, Kolkata. (sent through mail)
5. CIT(DR), Kolkata Benches, Kolkata. (sent through mail)

True copy

By order

Assistant Registrar  
ITAT, Kolkata Benches